

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ROBERT C. QUESADA,
Plaintiff

v.

**CHIEF JUSTICE GARCIA, THE
ESTATE OF THE HONORABLE
PHILIP MARTINEZ, and LORRE
KUKLA,**
Defendants

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Case No. 1:21-cv-00300-LY-SH

ORDER

Before the Court is Plaintiff Robert C. Quesada's Application to Proceed *In Forma Pauperis* (Dkt. 1), filed March 31, 2021, and Plaintiff's Financial Affidavit in Support, filed June 7, 2021 (Dkt. 5). The District Court referred all motions in this case to the undersigned Magistrate Judge for disposition and Report and Recommendation, pursuant to 28 U.S.C. § 636(b), Federal Rule of Civil Procedure 72, and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas.

Plaintiff seeks leave to file his suit against Chief Judge of the United States District Court for the Western District of Texas Orlando Garcia, The Estate of the Honorable Philip Martinez, and Chief Human Resources Officer of the Federal Judiciary Lorre Kukla without having to pay the filing fee. There is no absolute right to proceed without paying a filing fee in a civil action. *Norton v. Dimazana*, 122 F.3d 286, 290 (5th Cir. 1997). Proceeding *in forma pauperis* is "a procedural privilege that Congress may extend or withdraw." *Strickland v. Rankin Cnty. Corr. Facility*, 105 F.3d 972, 975 (5th Cir. 1997). The district court has the power to ensure the privilege of proceeding at the expense of the government is properly granted. *Lay v. Justices-Middle Dist. Ct.*, 811 F.2d 285, 286 (5th Cir. 1987).

In his Financial Affidavit, Plaintiff states that he has savings of \$500 and a monthly income of \$5,900. Dkt. 5 at 2-3 (reporting monthly income of \$3,200 in VA benefits and \$2,700 Social Security disability benefits). Thus, Plaintiff's annual income is \$70,800. Plaintiff further states that he has two dependents and a mortgage of \$290,000, a car loan of \$42,000, and a student loan of \$95,000. Dkt. at 3-4.

After due consideration, the Court finds that Plaintiff does not qualify to proceed *in forma pauperis* because he has sufficient income to pay the required \$402 filing fee. Accordingly, Plaintiff is **DENIED** leave to proceed *in forma pauperis* (Dkts. 1, 5). Plaintiff is **ORDERED** to submit to the Clerk of the Court the required filing fee for this lawsuit of \$402.00 by **July 15, 2021**. This suit will not be filed or acted upon until the appropriate payment is received. Failure to comply with this order will cause the Court to recommend closure of this case.

SIGNED on June 14, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE